Immunocept, LLC, et al v. Fulbright & Jaworski Doc. 5

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IMMUNOCEPT, LLC, PATRICE ANNE LEE, AND JAMES REESE MATSON	§	
	§	
Plaintiffs,	§	
	§	
v.	§	CAUSE NO. A050A334 SS
	§	
FULBRIGHT & JAWORSKI, LLP,	§	
	§	
Defendant.		

JOINT REPORT REGARDING SCHEDULING

TO THE HONORABLE JUDGE OF THIS COURT:

Immunocept, LLC, Patrice Anne Lee, and James Reese Matson, ("Immunocept") Plaintiffs in the above-entitled and numbered cause, and Fulbright & Jaworski, LLP ("Fulbright"), Defendant in the above-entitled and numbered cause, by and through their undersigned counsel, file this Joint Report Regarding Scheduling in response to the Court's Order of June 15, 2005. The parties would respectfully show the Court as follows:

1. The parties have conferred in good faith pursuant to Federal Rule of Civil Procedure 26(f). The parties have been unable to reach agreement on the dates to be included in the Scheduling Order.

2. The primary source of disagreement regarding the proposed dates is over the trial date: Immunocept requests trial in April 2005 whereas Fulbright asks for trial in July 2005. Immunocept normally would not quarrel over a few months difference. However, this matter is different because Immunocept believes that the resolution of this case could help facilitate it in making its medical product available to the general public. Further, Immunocept believes that

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this case can be brought to trial by April 2005 based on the amount of discovery necessary and the limited nature of the claims asserted. Fulbright disagrees and believes that, given counsel's trial schedule and the amount of discovery anticipated in this litigation, trial should not be scheduled until the month of July 2005, which would give the parties approximately 11 months to prepare for trial. Plaintiffs believe that trial can begin in April 2005. The differences regarding the date of trial carry through to the intermediate deadlines between now and trial.

3. Fulbright also believes that the prospects for successful alternative dispute resolution will be enhanced after the parties have had the opportunity to engage in discovery. The parties have already engaged in informal discussions of their relative positions, and Fulbright does not believe that it currently has enough information regarding the merits of Plaintiffs' claims to participate in an effective mediation. Accordingly, Fulbright would prefer to provide a report on alternative dispute resolution in compliance with Local Rule CV-88 after it has had a reasonable chance to engage in discovery.

4. While the parties disagree regarding the date of trial, they do agree regarding the timing of certain events relative to the date of trial. Once the Court sets a trial date, the parties believe that they will have no difficulty agreeing upon scheduling other deadlines. For instance, the parties have agreed generally that:

a. Parties shall file all amended or supplemental pleadings **three and a half months** prior to docket call. Parties shall join additional parties **five and a half months** prior to docket call.

b. All parties asserting claims for relief shall file their designations of potential witnesses, testifying experts, and proposed exhibits **four and a half months** prior to docket call. Parties resisting claims for relief shall file their designations **three and a half months** prior to docket call.

c. The parties shall complete all discovery **two and a half months** prior to docket call.

d. Dispositive motions are to be filed **two months** prior to docket call.

5. The parties agree that initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) will be exchanged on or before August 12, 2005.

6. Plaintiffs and defendant each enclose a proposed scheduling order reflecting their respective positions regarding scheduling.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served as shown below on counsel of record on July 29, 2005.

Via Certified Mail, Return-Receipt Certified
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